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Party Defendant JAY KIM

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CYCLONE USA, INC,
Plaintiff,
v.
LL&C DEALER SERVICES, LLC, et
al.,
Defendants.

Case No. CV 03-0992 AJW
Hon. Andrew J. Wistrich

**DECLARATION OF TIMOTHY L.
SKELTON IN SUPPORT OF
MOTION FOR ATTORNEYS FEES**

AND RELATED COUNTER-
COMPLAINTS AND THIRD-PARTY
COMPLAINT

Date: May 20, 2008
Time: 10:00 a.m.
Ctrm: 690

I, Timothy L. Skelton, declare as follows:

1. I am an attorney at law licensed to practice before all the State and Federal courts in the State of California and am a member of the law firm of Ropers, Majeski, Kohn & Bentley, counsel of record for Plaintiff Cyclone USA, Inc.. If called as a witness, I would and could competently testify to the matters set forth herein from my own personal knowledge.

2. I am familiar with the work done in this case by RMKB. I have been closely involved in the case from the day that it came to our office until the present.

1 I have prepared most of the papers filed in this case. I have been primarily
2 responsible for delegating the work to be done in this case.

3 3. LL&C and Sei Kim's assertion of counterclaims against Cyclone USA
4 and third party complaints against Jay Kim triggered potential insurance coverage
5 and a duty to defend under Cyclone USA's insurance policy with Golden Eagle
6 Insurance Company. My firm was retained to defend Cyclone USA and Jay Kim.
7 As a result, we worked with Arent Fox, and later Schadrack & Chapman, on the
8 defense of LL&C and Sei Kim's claims.

9 4. Even though both RMKB and Arent Fox, and later Schadrack &
10 Chapman, represented Cyclone USA and Jay Kim in the defense of the
11 counterclaims, there was very little overlap in the work that was performed by each
12 firm. Both RMKB and Arent Fox, and later Schadrack & Chapman, were vigilant
13 in maximizing the efficiency of the handling of this case between our offices. We
14 were in constant communication about ways to divide the work, and where tasks
15 could be handled more economically by RMKB, we did so.

16 5. RMKB billed Golden Eagle on an hourly basis, in tenths of an hour, based
17 on the hourly rates of the attorneys who worked on the matter. When this case
18 began, our rates were \$160/hr for attorneys, and \$75/hr for paralegals and law
19 clerks. During the litigation, our rates increased to \$200/hr for partners and
20 \$175/hr for associates.

21 6. Both from my experience and from membership in industry organizations,
22 I am familiar with the prevailing market rates in the Los Angeles area for attorneys
23 and paralegals or similar experience performing comparable work. The rates
24 charged by RMKB in this case are significantly below those rates. Our hourly rates
25 in this case are exceptionally low because they were a pre-negotiated rate with
26 Golden Eagle. We charge non-insurance clients substantially higher rates. Our
27 hourly rates in this case are substantially below the market rates in Los Angeles for
28 the same work being performed by the same level of attorney in a non-insured

1 situation. In fact, in two instances in the recent past, RMKB has had federal judges
2 add hundreds of thousands of dollars above the actual fees charged by our firm in
3 connection with a prevailing party fee award to account for our insurance company
4 rates being so far below market rates.

5 7. "Exhibit A" (manually filed), contains true and correct copies of our bills
6 in this case. On a daily basis, each lawyer at RMKB enters his or her time into our
7 computerized timekeeping program. At the end of each month, our accounting
8 software collates the time and generates the attached bills. The bills contain, among
9 other information, the date of service, a description of the work performed, the
10 identification of the attorney or paralegal that performed the work, and the amount
11 of time billed.

12 8. Four lawyers at RMKB -- Allan Anderson, Sean Flynn, Sami Khadder
13 and myself -- were the lawyers from RMKB who spent the most time on this
14 matter. Mr. Anderson graduated from the University of California at Berkeley in
15 1983, received his J.D. from the University of San Francisco School of Law in
16 1987, and was admitted to the California State Bar in 1988. Mr. Anderson is a
17 partner in the litigation department at RMKB with a practice dedicated to business,
18 commercial, and entertainment matters pertaining to intellectual property issues
19 such as trademark, copyright, and patent infringement, trade dress and false
20 advertising. All of Mr. Anderson's time was billed in this case at the partner rate.

21 9. I received my B.A. from the University of South Carolina in 1991,
22 graduated cum laude from the University of San Diego School of Law in 1998, and
23 was admitted to the California State Bar in 1999. I am a partner in the litigation
24 department at RMKB and I practice primarily in the areas of intellectual property
25 and business and technology. I was elected partner during the pendency of this
26 case, so the first part of my time was billed at the associate rate, with later time
27 billed at the partner rate.

28 10. Sean Flynn graduated from the University of the Pacific in 1997,

1 received his MBA from Pepperdine University in 2000, his J.D. from the
2 Pepperdine University School of Law in 2001, and was admitted to the California
3 State Bar in 2002. Mr. Flynn is an associate in the litigation department of RMKB,
4 and practices primarily in the areas of intellectual property and business litigation.
5 Mr. Flynn's time was billed at the associate rate.

6 11. Mr. Khadder graduated from the University of California, Davis in
7 2000, received his J.D. from the George Washington University School of Law in
8 2003, and was admitted to the California State Bar in 2004. Mr. Khadder is an
9 associate in the litigation department at RMKB, and practices primarily in the area
10 of intellectual property and business litigation. Mr. Khadder's time was billed at
11 the associate rate.

12 12. Other lawyers at RMKB who spent more than a nominal amount of time
13 to this matter include Arnold Sklar, Shanen Prout, Thomas O'Leary, and Rachel
14 Goodman. Each of these attorneys regularly practice in intellectual property
15 litigation.

16 13. There were also three paralegals that billed time to this matter. They
17 were all billed out at the \$75 paralegal rate. Like the attorney rates, this rate is an
18 exceptionally low rate pre-negotiated with Golden Eagle, and is significantly lower
19 than the prevailing market rates for comparably experienced intellectual property
20 paralegals in the Los Angeles area.

21 14. RMKB's total fees in this case through its most recent bill (March 2008)
22 have been \$1,167,272. After a review of my firm's invoices, we have determined
23 that \$70,221 in fees should not be included in the fee request because they were
24 expended on causes of action for which fees are not recoverable, leaving net
25 recoverable fees of \$1,097,051.

26 15. I have reviewed the bills that were sent to Golden Eagle for services
27 and costs expended in this case, both in the past and again in connection with this
28 motion. Golden Eagle has carefully reviewed these bills and has paid them, with

1 only minimal reductions for some time entries that did not comply with Golden
2 Eagle's particular billing requirements.

3 16. For the reasons stated above, and based on my firsthand knowledge of
4 the circumstances, allegations, and procedural history of this matter, I believe that
5 our fees were reasonable, appropriate, and necessary for the proper defense of
6 Cyclone USA and Jay Kim against Defendants' counterclaims.

7 I declare under penalty of perjury under the laws of the State of California
8 and of the United States of America, that the foregoing is true and correct.

9 Executed on this 21st day of March, 2008, at Los Angeles, California.

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12 _____/S/ Timothy L. Skelton
13 Timothy L. Skelton
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